

222/A.

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.1721 of 2014 (O&M)

Date of decision:17.05.2016

Updesh Singh

... Appellant

versus

Cholamandlum MS General Insurance Company and others.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. P.C. Chaudhary, Advocate,
for the appellant.

Mr.Rajneesh Malhotra, Advocate,
for respondent No.1.

Mr.Siddharth Sanwaria, DAG, Haryana.

Mr. Suvir Dewan, Advocate,
for respondent No.4.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The appeal is by the owner, who has been denied the right of indemnity on the ground that the truck which had admittedly a permit for plying in the State of Rajasthan, had purposed to have strayed into Haryana at the time of accident. So long as there was a permit for a particular purpose required in law, a mere deviation from the permit ought not to be available for an insurer to plead

exoneration of liability. In any event, the lack of evidence of how the vehicle had strayed into Haryana is explained by an additional evidence filed with an application under Order 41 Rule 27 CPC that makes available an endorsement of the District Transport Authority, Hanumangarh that there was a temporary route permit issued to the appellant's vehicle for travel from Hanumangarh to Delhi through Punjab and Haryana and it was valid from 13.12.2011 to 11.01.2012 which is the relevant time when the accident had taken place. I find the endorsement as relevant and would have no reasons to suspect the genuineness of the document. In any event, I have already held that so long as the purpose for which the permit had been issued is not breached, the Insurance Company cannot set up a plea of the plaintiff being plied outside the route as a ground for disowning the liability.

2. The Insurance Company shall fully indemnify any right that is assessed against the owner and driver. The finding to the contrary by the court below is set aside and the appeal by the owner is allowed.

(K.KANNAN)
JUDGE

17.05.2016
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